

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2568

(SENATE AUTHORS: SENJEM and Nelson)

DATE	D-PG	OFFICIAL STATUS
03/27/2012	5159	Introduction and first reading Referred to Jobs and Economic Growth

1.1

A bill for an act

1.2

relating to unemployment compensation; modifying definition of noncovered

1.3

employment; amending Minnesota Statutes 2011 Supplement, section 268.035,

1.4

subdivision 20.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. Minnesota Statutes 2011 Supplement, section 268.035, subdivision 20,

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is amended to read:

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Subd. 20. **Noncovered employment.** "Noncovered employment" means:

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(1) employment for the United States government or an instrumentality thereof,

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including military service;

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(2) employment for a state, other than Minnesota, or a political subdivision or

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instrumentality thereof;

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(3) employment for a foreign government;

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(4) employment for an instrumentality wholly owned by a foreign government,

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if the employment is of a character similar to that performed in foreign countries by

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employees of the United States government or an instrumentality thereof and the United

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States Secretary of State has certified that the foreign government grants an equivalent

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exemption to similar employment performed in the foreign country by employees of the

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United States government and instrumentalities thereof;

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(5) employment covered under United States Code, title 45, section 351, the

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Railroad Unemployment Insurance Act;

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(6) employment covered by a reciprocal arrangement between the commissioner and

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another state or the federal government that provides that all employment performed by an

individual for an employer during the period covered by the reciprocal arrangement is considered performed entirely within another state;

(7) employment for a church or convention or association of churches, or an organization operated primarily for religious purposes that is operated, supervised, controlled, or principally supported by a church or convention or association of churches described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a);

(8) employment of a duly ordained or licensed minister of a church in the exercise of a ministry or by a member of a religious order in the exercise of duties required by the order, for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a);

(9) employment of an individual receiving rehabilitation of "sheltered" work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or a program providing "sheltered" work for individuals who because of an impaired physical or mental capacity cannot be readily absorbed in the competitive labor market. This clause applies only to services performed for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a) in a facility certified by the Rehabilitation Services Branch of the department or in a day training or habilitation program licensed by the Department of Human Services;

(10) employment of an individual receiving work relief or work training as part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof. This clause applies only to employment for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a). This clause does not apply to programs that require unemployment benefit coverage for the participants;

(11) employment for Minnesota or a political subdivision as an elected official, a member of a legislative body, or a member of the judiciary;

(12) employment as a member of the Minnesota National Guard or Air National Guard;

(13) employment for Minnesota, a political subdivision, or instrumentality thereof, as an employee serving only on a temporary basis in case of fire, flood, tornado, or similar emergency;

(14) employment as an election official or election worker for Minnesota or a political subdivision, but only if the compensation for that employment was less than \$1,000 in a calendar year;

(15) employment for Minnesota that is a major policy-making or advisory position in the unclassified service, including those positions established under section 43A.08, subdivision 1a. This does not apply to employment as an administrator in the Minnesota State Colleges and Universities system;

(16) employment for a political subdivision of Minnesota that is a nontenured major policy making or advisory position;

(17) domestic employment in a private household, local college club, or local chapter of a college fraternity or sorority performed for a person, only if the wages paid in any calendar quarter in either the current or prior calendar year to all individuals in domestic employment totaled less than \$1,000.

"Domestic employment" includes all service in the operation and maintenance of a private household, for a local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade or business;

(18) employment of an individual by a son, daughter, or spouse, and employment of a child under the age of 18 by the child's father or mother;

(19) employment for a personal care assistance provider agency by an immediate family member of a recipient who provides the direct care to the recipient through the personal care assistance program under section 256B.0659;

(20) employment of an inmate of a custodial or penal institution;

(21) employment for a school, college, or university by a student who is enrolled and whose primary relation to the school, college, or university is as a student. This does not include an individual whose primary relation to the school, college, or university is as an employee who also takes courses;

(22) employment of an individual who is enrolled as a student in a full-time program at a nonprofit or public educational institution that maintains a regular faculty and curriculum and has a regularly organized body of students in attendance at the place where its educational activities are carried on, taken for credit at the institution, that combines academic instruction with work experience, if the employment is an integral part of the program, and the institution has so certified to the employer, except that this clause does not apply to employment in a program established for or on behalf of an employer or group of employers;

(23) employment of university, college, or professional school students in an internship or other training program with the city of St. Paul or the city of Minneapolis under Laws 1990, chapter 570, article 6, section 3;

(24) employment for a hospital by a patient of the hospital. "Hospital" means an institution that has been licensed by the Department of Health as a hospital;

(25) employment as a student nurse for a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in an accredited nurses' training school;

(26) employment as an intern for a hospital by an individual who has completed a four-year course in an accredited medical school;

(27) employment as an insurance salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission. The word "insurance" includes an annuity and an optional annuity;

(28) employment as an officer of a township mutual insurance company or farmer's mutual insurance company operating under chapter 67A;

(29) employment of a corporate officer, if the officer directly or indirectly, including through a subsidiary or holding company, owns 25 percent or more of the employer corporation, and employment of a member of a limited liability company, if the member directly or indirectly, including through a subsidiary or holding company, owns 25 percent or more of the employer limited liability company;

(30) employment as a real estate salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission;

(31) employment as a direct seller as defined in United States Code, title 26, section 3508;

(32) employment of an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(33) casual employment performed for an individual, other than domestic employment under clause (17), that does not promote or advance that employer's trade or business;

(34) employment in "agricultural employment" unless considered "covered agricultural employment" under subdivision 11; or

(35) if employment during one-half or more of any pay period was covered employment, all the employment for the pay period is considered covered employment; but if during more than one-half of any pay period the employment was noncovered employment, then all of the employment for the pay period is considered noncovered

S.F. No. 2568, as introduced - 87th Legislative Session (2011-2012) [12-5649]

5.1 employment. "Pay period" means a period of not more than a calendar month for which a
5.2 payment or compensation is ordinarily made to the employee by the employer.

5.3 **EFFECTIVE DATE.** This section is effective the day following final enactment
5.4 and is retroactive from July 1, 2010.